

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Timothy Dinkins,) Civil Action No.: 9:13-1320-MGL
)
Plaintiff,)
)
vs.)
)
	ORDER AND OPINION
)
Sgt. M. Dailey; Major West; Mrs. H. Sellers;)
and Angela Graves, <i>All sued in their individual capacity,</i>)
)
Defendants.)
)

Plaintiff Timothy Dinkins (“Plaintiff”), a state prisoner proceeding *pro se* and *in forma pauperis*, is currently incarcerated at the Evans Correctional Institution of the South Carolina Department of Corrections. Plaintiff brings this action pursuant to 42 U.S.C. § 1983, asserting that his constitutional rights have been violated.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C ., this matter was referred to United States Magistrate Judge Bristow Marchant for pretrial handling. The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. §§ 1915 and 1915A and the Prison Litigation Reform Act. On August 20, 2013, the Magistrate Judge issued a Report and Recommendation in which he noted that the complaint is subject to summary dismissal pursuant to *Heck v. Humphrey*, 512 U.S. 477, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994).

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). The court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). The Court may also receive further evidence or recommit the matter to the Magistrate

Judge with instructions. *Id.* The Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objections are made.

Plaintiff was advised of his right to file objections to the Report and Recommendation. (ECF No. 23 at 7.) However, Plaintiff filed no objections and the time for doing so expired on September 6, 2013. In the absence objections to the Magistrate Judge's Report and Recommendation, this Court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed.R.Civ.P. 72 and advisory committee's note).

Here, because no objections have been filed, the Court has reviewed the Magistrate Judge's findings and recommendations for clear error. Finding none, the Court agrees with the Magistrate Judge that the Plaintiff's claims against Defendants are subject to summary dismissal. After a careful review of the record, the applicable law, and the Report and Recommendation, the Court finds the Magistrate Judge's recommendation to be proper. Accordingly, the Report and Recommendation is adopted and incorporated herein by reference and this action is DISMISSED without prejudice and without service of process.

IT IS SO ORDERED.

/s/Mary G. Lewis
United States District Judge

Spartanburg, South Carolina
September 23, 2013